

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
BABCOCK BORSIG POWER GmbH,)	
)	
Plaintiff,)	
)	
v.)	
)	
BABCOCK POWER, INC.,)	
)	
Defendant,)	
)	CIVIL ACTION
BABCOCK POWER, INC.,)	NO. 04-10825 (RWZ)
)	
Third-Party Plaintiff,)	
)	
v.)	
)	
BABCOCK BORSIG, AG)	
)	
Third-Party Defendant.)	
_____)	

JOINT MOTION TO AMEND JOINT DISCOVERY PLAN

Plaintiff Babcock Borsig Power GmbH, Defendant and Third-Party Plaintiff Babcock Power, Inc. and Third-Party Defendant Babcock Borsig AG hereby jointly move this Court to amend the Joint Proposed Discovery Plan approved by the Court on June 3, 2005 and to adopt the Amended Joint Proposed Discovery Plan submitted herein.

On June 2, 2005, the parties submitted a Joint Proposed Discovery Plan ("Plan") that called for the completion of fact discovery, including all depositions, productions of documents and other written fact discovery, by December 31, 2005. The Plan called for various subsequent

deadlines for discovery relating to expert witnesses and their reports. The Court endorsed the Plan on June 3, 2005.

The parties have conferred and agree that three additional months are necessary to complete discovery and that no party will be prejudiced by an extension of time. The parties have diligently pursued discovery by substantially completing their respective productions of documents, conducting one deposition, and conferring to schedule further depositions. Nevertheless, because two of the parties (and a number of party and non-party witnesses to be deposed) are outside the United States and because certain documents will require translation from German to English, discovery will require more time than contemplated in the initial Plan.

WHEREFORE, the parties respectfully request that the Court endorse this Amended Joint Proposed Discovery Plan for the completion of discovery as set forth on the schedule below.

<u>EVENT</u>	<u>DATE</u>
Completion of fact discovery, including completion of depositions, production of documents and all written fact discovery.	March 31, 2006
Initial Disclosure of Experts [Identification, Subject Matter, Credentials]	May 1, 2006
Reports of Experts Disclosed	June 1, 2006
Rebuttal Experts [Identification and Reports]	July 15, 2006
Completion of Expert Depositions/Discovery	August 31, 2006
Summary Judgment (Partial or Full)	Any time up to September 30, 2006

Respectfully submitted,

BABCOCK POWER, INC.

By its attorneys,

/S/ Steven J. Comen

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BABCOCK BORSIG AG
BABCOCK BORSIG POWER GmbH

By their attorneys,

/S/ John F. Welsh

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Dated: November 7, 2005

SO ORDERED, this ____ day of _____, 2005.
